

STATE OF MICHIGAN  
COURT OF APPEALS

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ADRIENNE T. CLAHASSEY,

Plaintiff-Appellee,

v

C AMI INC., d/b/a CHEZ AMI INC. and  
TRAFFIC JAM LOUNGE,

Defendant-Appellant,

and

B & B BEER DISTRIBUTING COMPANY INC.,

Defendant.

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UNPUBLISHED

July 31, 2003

No. 229003

Kent Circuit Court

LC No. 96-003945-NI

ON REMAND

Before: Whitbeck, C.J., and Bandstra and Talbot, JJ.

MEMORANDUM.

In a prior opinion, *Clahassey v Chez Ami Inc (Clahassey I)*, unpublished opinion per curiam of the Court of Appeals, issued September 24, 2002 (Docket No. 229003), we affirmed the trial court's denial of defendant Chez Ami, Inc.'s motion for summary disposition. Defendant had argued that the risks of the mock sumo wrestling match at issue here were open and obvious. Because we concluded that reasonable minds could differ on that question, we concluded that summary disposition would have been improper. *Id.* at 2.

The Supreme Court remanded this question to us for reconsideration in light of *Lugo v Ameritech Corp, Inc*, 464 Mich 512; 629 NW2d 384 (2001). *Clahassey v Chez Ami, Inc (Clahassey II)*, \_\_\_ Mich \_\_\_ (2003). The Supreme Court's order specifically advised that, under *Lugo, supra* at 523-524, courts should "focus on the objective nature of the condition of the premises at issue, not on the subjective degree of care used by the plaintiff."

Having reviewed our previous opinion, we conclude that summary disposition was properly denied defendant under this standard. Specifically, we noted plaintiff's arguments that the suit she had to wear for the competition "appeared to be soft and padded" but was "actually stiff and restricted her movements." *Clahassey I, supra*. Further, plaintiff argued that the "casual observer would [not] be able to discern the quality of the suit." *Id.* Thus, our decision in

this regard hinged on the objective nature of the sumo wrestling competition not the subjective degree of care used by the plaintiff.<sup>1</sup>

We again affirm.

/s/ William C. Whitbeck

/s/ Richard A. Bandstra

/s/ Michael J. Talbot

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<sup>1</sup> The only subjective factors noted in the opinion were those raised by defendant which argued that plaintiff knew of the hazards involved in the wrestling match (e.g., the helmet covering her eyes which might result in tripping and the fact that previous competitors had fallen out of the ring). See *Clahassey I, supra*. Our decision did not rest on those subjective factors; had they been relied upon, they would of course have supported a reversal of the denial of defendant's motion for summary disposition, not our decision to affirm the denial of summary disposition.